REMARKS

Applicants are most grateful for the time and effort afforded this application. In the Office Action dated July 23, 2008, pending Claims 1-20 were rejected. Claims 1, 10 and 19 are independent claims; the remaining claims are dependent. Applicants submitted an Amendment After Final on September 23, 2008. The Office issued an Advisory Action in response thereto indicating that further search and consideration was required and that the proposed claims of September 23, 2008 appeared similar to the claims of October 24, 2008. In response, Applicants respectfully submit this Second Amendment After Final, having an updated claim set and remarks. The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the foregoing amendments and the following remarks.

It should be noted that on August 21, 2008, Applicants' representative conducted a telephone interview with the Examiner. The present invention was discussed with reference to the cited art. No agreement was reached.

It should additionally be noted that the Applicants are not conceding in this application that the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution of the instant application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

Rejections under 35 U.S.C. § 103(a)

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Anerousis et al. (U.S. Patent Publication No. 2004/0210670) (hereinafter "Anerousis") in view of Klinker et al. (U.S. Patent No. 7,133,365) (hereinafter "Klinker"). Applicants respectfully request reconsideration and withdrawal of these rejections.

The instant invention is not obvious in view of Anerousis, either alone or in combination with Klinker. As the Examiner is no doubt aware, a 35 U.S.C. §103(a) rejection requires a motivation to combine the references and an expectation of success. Not only is there no motivation to combine the references, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over the combined references and the state of the art.

To briefly summarize, the instantly claimed invention is a decentralized or distributed approach to routing (choosing the best ISP) *because it utilizes a general-purpose computer to route, rather than a centralized router*. Claim 1; *Specification*, page 6, lines 10-11. Rather than utilize centralized route control devices that interact with the edge routers by updating tables (as in Klinker, discussed below), *the instantly claimed invention accomplishes first hop route selection utilizing, e.g., MPLS labels at the general purpose computers, extending the choice back to the applications themselves.*

In other words, once the general-purpose computer makes the routing decision, it is forwarded to an edge router and "at the edge router, the label corresponding to each LSP is used to determine on which link the packet is forwarded." *Specification*, pp. 7,

lines 4-5; see also Fig. 2). Thus, the edge router merely interprets the routing decision *made at the general-purpose computer itself.*

As best understood, Anerousis is directed to methods of modifying *networks* to perform proper routing using <u>*a Service Level Router (SLS)*</u> (i.e., *it is directed to server selection within the network itself—not by a general purpose/end user computer*). *Anerousis*, [0018]-[0019]. Anerousis *is not concerned with route control employing general-purpose computers* (e.g. a user's work station) *to route the best first hop to an ISP*. *Anerousis*, Abstract; Figure 1 and accompanying text.

The Examiner cites Anerousis at [0018]-[0019] for the proposition that a general-purpose computer can be utilized to select the best route; however, the cited paragraphs merely teach *routers located within the network making the selection*. Anerousis states therein "[t]his exemplary embodiment performs selection among a plurality of servers located at a single host site using a site-specific Service Level Router (SLR)." *Id* at [0018]. Paragraph [0019] also makes this clear. Thus, Anerousis does not teach what the Examiner has cited it for.

Klinker does not account for the deficiencies of Anerousis discussed above. As best understood, Klinker teaches a traditional centralized route selection. This *centralized device implements the routing scheme rather than at the end-points (e.g. general purpose or end-user computers)*. *Klinker*, Figure 10 and accompanying text.

In contrast to Klinker and Anerousis, the instantly claimed invention "removes the need for a dedicated route control device and instead permits general purpose computers

to perform route control functions themselves." *Specification*, page 6, lines 10-11. Thus,

rather than the "Central PFA" of Klinker, the instantly claimed invention allows *general*

purpose computers to control the routing to the ISP by employing labels to outgoing links

to direct the routers, thus allowing a more distributed approach to route control. *Klinker*,

Figure 10.

The teachings of Anerousis and Klinker stand in stark contrast with the instantly

claimed invention. Solely in an effort to facilitate expeditious prosecution, Applicants

have amended claim 1 to recite, *inter alia*,

> A method comprising the steps of: *utilizing a general purpose computer*
> *for network route control: said utilizing further comprising*: establishing a
> connection between said general purpose computer and an arrangement for
> linking said computer to multiple internet service providers (ISPs);
> measuring relevant performance and availability metrics of said links at
> said general purpose computer; and making a routing control decision at
> said general purpose computer prior to sending a packet comprising
> network traffic; wherein said general purpose computer makes the routing
> control decision to direct the packet to *an outgoing* link based upon said
> relevant performance and availability metrics.

Claim 1 (emphasis added). The remaining independent claims have been rewritten to

incorporate similar language. This language is intended to clarify that rather than

utilizing separate routing control products, *it is the general purpose computer the makes*

the routing control decision, based on relevant metrics as measured at the general purpose

computer, and determines to which link a packet will go. Applicants respectfully submit

that the instantly claimed invention is clearly distinguishable from the art of record and

the state of the art. Applicants therefore respectfully request reconsideration and

withdrawal of the rejection under 35 U.S.C. § 103(a).

Applicants also briefly note that the claims have been amended after final. However, the amendments presented herein incorporate the preamble language into the body of the claim in order to clarify that the general purpose computer is the decentralized routing device and to clarify that the general purpose computer is selecting the outgoing link (i.e. performing the routing). As such, these amendments should not require further search and consideration.
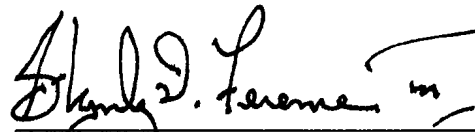
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Conclusion

In view of the foregoing, it is respectfully submitted that Independent Claims 1, 10 and 19 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1 and 10, it is thus also submitted that Claims 2-9, 11-18 and 20 are also allowable at this juncture.

In summary, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Stanley D. Ference III
Registration No. 33,879

Customer No. 47049
FERENCE & ASSOCIATES LLC
409 Broad Street
Pittsburgh, Pennsylvania 15143
(412) 741-8400
(412) 741-9292 - Facsimile

Attorneys for Applicants